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10/602,863	06/25/2003	Craig Bienick		2110

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EXAMINER

SAWHNEY, HARGOBIND S

ART UNIT PAPER NUMBER

2875

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/602,863

Applicant(s)

BIENICK, CRAIG

Examiner

Hargobind S. Sawhney

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-65 is/are pending in the application.
- 4a) Of the above claim(s) 1-20, 23, 30-52 and 55-65 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21 and 22 is/are rejected.
- 7) ☒ Claim(s) 24-29 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

1. The amendment and response July 8, 2005 have been entered. Accordingly:
 - Claims 1-3, 6, 7, 14, 15, 18, 19 and 20 have been amended; and
 - New claims 55-65 have been added.
2. The information disclosure statement, with the needed corrections, filed on July 8, 2005 has been entered.
3. Based on further examination the non-final office action mailed on June 15, 2005 has been withdrawn. Through this office action the claims readable on the elected figures 1-4 has been examined.
4. Based on a provisional election of Species I of figures 1-4 with traverse, and further review of the elected species, claims 21, 22 and 24-29 have been examined in this non-final office action, as they have been found readable on Figures 1-4. Further, claims 1-20, 23, 30-52 and 55-65 have been withdrawn from further consideration, as they have been found not readable on the elected figures 1-4.

Drawings

5. The drawings are objected to under 37 CFR 1.83(a). The elected figures 1-4 must show must show every feature of the invention specified in the claims. Therefore, the following claimed matter must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Claim 1, lines 5-7, "means in the form of substantially homogeneous synthetic polymeric, co-polymeric material molded in in situ encapsulating relationship to at least part of said housing";

The above-indicated deficiency has also been observed in each of the independent claims 15, 18-20, 44, 47 and 50, and dependent claims 26 and 27.

Claim 30, lines 2 and 3, said housing first and second substantially parallel longitudinally extending chambers. Claim 30 and its dependent claims have not been further examined in this office action.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

6. The specification is objected to as failing to provide proper antecedent basis for the following claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o).

- Claim 1, lines 5-7, "means in the form of substantially homogeneous synthetic polymeric, co-polymeric material molded in in situ encapsulating relationship to at least part of said housing"; Note: The above-indicated deficiency has also been observed in each of the independent claims 15, 18-20, 44, 47 and 50, and dependent claims 26 and 27; and
- Claim 30, lines 2 and 3, said housing first and second substantially parallel longitudinally extending chambers. Claim 30 and all of its dependent claims, these claims have not been further examined in this office action.

The specification needs careful review and corrections imparting details of all claimed matters including the above-indicated ones.

7. Regarding Claim 1, lines 5-8, "means in the form of substantially homogeneous synthetic polymeric, co-polymeric material molded in in situ encapsulating relationship to at least part of said housing" the applicant is advised that patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process. The above-indicated concern also applies to the independent claims 15, 18-20, 44, 47 and 50, and dependent claims 26 and 27.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 21-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Rey-Grange (EPO Patent No.; EP 1 222 885 A1), hereafter referred as Rey.

Regarding claims 21, 22, Rey discloses the illuminating device (Figures 1 and 2) comprising:

- a chamber within a housing 3, and the housing defining a slot opening 25,26 - defined by the faces 25 and 26 - into the chamber (Figure 2, English translated abstract; and Para. 0033);
- an edge of a light-transmitting panel 4 received in the slot opening 25,26; means 11 illuminating the light-transmitting panel 4 through the chamber and the edge portion of the light-transmitting panel 4 (Figure 2, English translated abstract; and Para. 0033);
- means 16 and 23, securing the housing 3 relative to the support 24 (Figure 2, English translated abstract; and Para. 0031);

- the housing 3 being a two-part: a peripheral wall, and a removable light-supporting plate 13 - (Figures 1 and 2, English translated abstract; and Para. 0028);
- means 14 and 15 for removably securing the housing parts – the peripheral wall and the element 13 - together, and the arrangement of the elements 13 and 14 facilitating access to the chamber for replacement of the light-creating element 11 (Figures 1 and 2, English translated abstract; and Para. 0028); ad
- means 90 directing light from the illuminating means 11 (Figure 2, English translated abstract; and Para. 0033).

Allowable Subject Matter

10. Claims 24-29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art of record, including Matyear et al. (WP 95/30970) and Rey-Grange (EPO Patent No.; EP 1 222 885 A1) 2003/0038571 A1), does not show or suggest the applicant's invention as claimed. Specifically, the prior art of record does not disclose an illumination device combining:

- a housing having a first and second parts, wherein the first part defining a slot opening into the chamber, and the second part of the housing including a supporting means as recited in Claim 24, 28 and 29.

The above-indicated combination of structural elements and relative positioning arrangement makes this invention unique.

Rey discloses an illuminating device having a housing including a first and second parts, wherein only one of the two parts of the housing includes both the slot and the supporting means. Thus, Rey does not meet the limitations of each of the claims 24, 28 and 29.

Matyear discloses an illuminating means including first and second parts. However, Matyear does not teach the first part defining a slot opening into the chamber, and the second part of the housing including a supporting means.

Therefore, Claims 24, 28 and 29 are objected over prior art.

Claims 25-27 are necessarily objected because of their dependency on the objected base Claim 24.

Response to Amendment

11. Applicant's arguments filed on July 8, 2005 with respect to the restriction requirements, consideration of claims for examination, and 35 U.S.C. 103(a) rejection of claims 1-7, 9, 16 and 17 have been fully considered but they are not persuasive.

Argument: The applicant identifies claims 1-3 and 30-34 as generic, whereas the examiner indicates none of the claims is generic.

Response: None of the claims 1-3 and 30-34 reads on the elected figures 1-4. Therefore, none of none of the above-indicated claims is generic.

Argument: Regarding claims 1-7, neither combined nor individual teaching of Matyear et al. (WP 95/30970) and Obrock et al. (US Patent Application Pub. No.: US 2003/0038571 A1) discloses "means in the form of substantially homogeneous synthetic polymeric, co-polymeric material molded in in situ encapsulating relationship to at least part of said housing" recited in Claim 1. Therefore, Claim 1 is clearly allowable.

Response: Based on further examination, the non-final office action mailed on June 15, 2005 has been withdrawn. in addition, as indicated in section 5 above, the limitation "means in the form of substantially homogeneous synthetic polymeric, co-polymeric material molded in in situ encapsulating relationship to at least part of said housing" is not readable in the elected figures 1-4. Therefore, the amended independent claim 1 and other claims 2-20, 23, 30-52 and 55-65 have been withdrawn from further consideration.

This office non-final office action has examined claims 21, 22 and 24-29, which are readable on the elected figures 1-4.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Koch (US Patent No.: 3,612,848) and Rey-Grange (EPO Patent No.: EP 1222885 A1)


13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hargobind S. Sawhney whose telephone number is 703-272-2380. The examiner can normally be reached on 6:15 - 2:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 571-272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HSS

9/30/2005


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